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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/654,080

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Peter V. Radatti

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EXAMINER

NGUYEN, PHILLIP H

ART UNIT

PAPER NUMBER

2191

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/654,080	Applicant(s) RADATTI ET AL.	
	Examiner Phillip H. Nguyen	Art Unit 2191	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 25 August 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-33 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-33 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>08252008</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to the amendment filed 8/25/2008.
2. Claims 1-33 remain pending in this application; claims 10, 18, and 24 have been amended; claims 29-33 are newly added.

Response to Amendment

3. Prior rejection to claims 18-25 under 35 USC 101 non-statutory is hereby withdrawn in view of applicant's amendment.

Response to Arguments

4. Applicant's arguments with respect to claims 1-33 have been considered but are moot in view of the new ground(s) of rejection.

Applicant asserts on pages 13-17 of the amendment that Tobler teaches "hypothetical data" is used to avoid the actual data usage rather than actual data of the user that Applicant's invention provides as recited in claims 1, 16-18, and 24. In other words, hypothetical data and data (i.e. actual data) are not the same. Therefore, it would not have been obvious to combine Tobler with Suzuki, and moreover, nor would the combination have resulted in Applicant's present invention.

Examiner respectfully disagrees with the allegations as argued by the Applicant. First, hypothetical data is data (i.e. actual data). The claims do not limit to any particular

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kind of data (i.e. actual data or hypothetical data). Second, Tobler allows user to input hypothetical data for demonstration purposes in order to reduce the costs and errors such as establishing, maintaining and cleaning an active trial account for each prospective client. However, it is not necessarily mean that hypothetical data are not actual data. In fact, hypothetical data in Tobler are actual data inputted into the control window by the user for performing demonstration purposes so that the user can look and feel of the operation of the demonstrated program. One of an ordinary skill in the art would recognize that the actual data must be used in order to provide the actual operation of the demonstrated program to the user. Finally, Examiner agrees with Applicant that Suzuki's invention does not state the use of data of the terminal from the user for the demonstration otherwise Suzuki is a 102 prior art. However, Suzuki teaches terminal server to regulate input and output of a demonstration (see Suzuki [0013]) but dose not prevent the terminal server from accepting inputs from the user terminal for a demonstration. The combination of Suzuki and Tobler would have been obvious because Tobler cures the deficiency of Suzuki.

Applicant asserts on pages 17-18 that Suzuki in combination with Tobler fails to teach "identifying a user further comprises identifying a user through supplying a user with a unique, operational email address" as recited in claim 5.

Examiner respectfully disagrees with the allegation as stated by the applicant. Claim 5 was rejected by using **official notice** in combination with Suzuki and Tobler.

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However, Applicant fails to give reason(s) why the official notice would not have been obvious. Indeed, neither Suzuki nor Tobler teaches supplying the user with an email address. For this reason, Examiner took official notice that supplying the user with email address is well known in the art. Thus, Examiner submits that Waites (USPN 6,788,769), teaches supplying/generating an email address for each user (see Waites at least col. 5:66-67).

Applicant asserts on pages 19-23 that Suzuki in combination with Tobler fails to teach limitations of claims 7-12, 15, 19, and 20 because either the email demonstration is mentioned in Suzuki or the use of user email.

Examiner respectfully disagrees with all the allegations as argued by the applicant. Again, Examiner took **official notice** for claims 7-12, 15, 19, and 20. Applicant fails to give reason why the official notice would not have been obvious. However, Examiner provides that Chen et al. (USPN 5,832,208) teaches the limitations of claims 7-12, 15, 19, and 20.

For these reasons set for above, the application is not in allowable condition and therefore, a FINAL rejection must be issued.

Examiner is entitled to give claim limitations their broadest reasonable interpretation in light of the specification. See MPEP 2111 [R-1] Interpretation of

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Claims-Broadest Reasonable Interpretation. During patent examination, the pending claims must be given the broadest reasonable interpretation consistent with the specification.

Applicant always has the opportunity to amend the claims during the prosecution and broad interpretation by the examiner reduces the possibility that the claims, once issued, will be interpreted more broadly than is justified. In re Prater, 162 USPQ 541, 550-51 (CCPA 1969).

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claims 1-4, 6, 13, 14, 21-23, 25-28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (JP02002342084A), in view of Tobler (United States Patent No.: US 6,978,232).

As per claims 1, 16-18, and 24:

Suzuki teaches:

providing an identified user with access, via a network, to a server comprising a program to be demonstrated (see at least [0014] **“A user terminal**

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is characterized by logging on to said terminal server through a communication line”);

executing on said server said program to be (see at least [0010] “**a demonstration execution server connected to the same network as aforementioned terminal server to execute aforementioned software demonstration**”); and

providing any results of said execution based on the execution of the demonstration program manipulating the code received from said identified user (see at least [0014] “**receiving the demonstration result of said software by said server for demonstration activation through said terminal server**”).

Suzuki does not explicitly teach:

executing on said server said program to be demonstrated using said code received from said identified user.

However, Tobler teaches:

executing on said server said program to be demonstrated using said code received from said identified user (see at least the abstract “**the prospective client can still navigate through a series of pages and input hypothetical data as though operating an actual control window of the virtual server service**”; also see col. 7:50-61 “**...when the prospective client selects the database manager demonstration component 102h from any page of the control window 100...The prospective user can manipulate the**

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data menu and the input field 184 to experience the look and feel of operating the database manager unit of the virtual server").

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Suzuki's approach to include the teaching of Tobler. One of ordinary skill in the art would have been motivated to modify because it provides a flexible way of using input data for demonstration purposes.

As per claim 2:

Suzuki further teaches:

wherein said server is a highly secured server (since it requires user to log in by the account, it is a highly secured server).

As per claims 3 and 4:

Suzuki further teaches:

wherein said providing an identified user with access, via a network, to a server comprising a program to be demonstrated further comprises identifying a user and providing said identified user with access, via a network, to a server comprising a program to be demonstrated (see at least [0026] "...logs on by the account for which it has applied beforehand. If the account is a right thing, a log on in a terminal server 210 will be permitted").

As per claim 6:

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Suzuki further teaches:

wherein said identifying a user further comprises identifying a user through supplying a user with a unique, operational user ID (see at least [0026] “...logs on by the account for which it has applied beforehand. If the account is a right thing, a log on in a terminal server 210 will be permitted” – account contains user identification).

As per claims 13, 22 and 25:

Suzuki further teaches:

wherein said providing any results of said execution further comprises providing any results of said execution via a web page (It is inherent in order to show the results on the terminal computer).

As per claim 14:

Suzuki further teaches:

providing said identified user with an option to purchase said program (It is inherent in order to fulfill software demonstration/trial purposes).

As per claim 21:

Suzuki further teaches:

wherein said server is accessible to said identified user via the Internet
(see at least [0011] “...**communication line of the 1st invention being the Internet**”).

As per claim 23:

Suzuki further teaches:

wherein said apparatus is in distributed form (It is inherent in order to fulfill the software demonstration purposes).

As per claim 26:

Suzuki further teaches:

wherein said web page accessible to one or more of said user and others
(see at least [0029] “**there is no limit of the number of user terminals**”).

As per claim 27:

Suzuki in combination with Tobler further teaches:

wherein said server and said program to be demonstrated are configured to execute said program to be demonstrated by manipulating said received code as part of said program execution to provide a result based on said received code that corresponding with the execution of said program to be demonstrated using said received code, and, wherein said results provided comprise the results that would have been obtained if the program were installed for operation on the

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user machine from which the received code was obtained (the rejection has been addressed in claim 1).

As per claim 28:

Suzuki in combination with Tobler further teaches:

wherein said user upload of said code that is to be received by said server from said user for use in execution by the demonstration program is automatically configured to upload said code to be run to the server, and wherein said server is configured to run said received user code (the rejection has been addressed in claim 1).

7. Claims 5, 7-12, 15, 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (JP02002342084A), in view of Tobler (United States Patent No.: US 6,978,232).

As per claim 5:

Suzuki does not explicitly teaches:

wherein said identifying a user further comprises identifying a user through supplying a user with a unique, operational email address.

However, official notice is taken that supplying a user with a unique, operational email address is well known to the art at the time the invention was made. One would have been motivated to modify Suzuki's approach to use email address as part of a

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user account for identifying user because the manufacturer may be used email to send out software demonstration message to the user. Therefore, using email address to match the user account is easy and fast.

As per claims 7, 8, 12 and 19:

Suzuki does not explicitly teach:

an email scanning program/proscribed code scanner program to be demonstrated.

However, official notice is taken that email scanning program or proscribed code scanner program is well known to the art at the time the invention was made. One would have been motivated to include an email scanning program/a proscribed code scanner program to be demonstrated in order to fulfill the user's needs and desires.

As per claims 9 and 20:

Suzuki does not explicitly teaches:

wherein said receiving code from said identified user further comprises receiving email from said identified user.

However, official notice is taken that receiving email from said identified user is well known to the art at the time the invention was made. One would have been motivated to email the server to request software demonstration or the email the code or message to the server for demonstration because it is a convenient, fast, and easy way to do.

As per claim 10:

Suzuki does not explicitly teaches:

wherein said receiving email from said identified user further comprises receiving a predetermined amount of email from said identified user, wherein said email comprises code received from said user, and wherein said program to be demonstrated uses said email.

However, official notice is taken that receiving a predetermined amount of email from said identified user is well known to the art at the time the invention was made. One would have been motivated to only allow a predetermined amount of mail from the user to request software demonstration because the server only accepting number of time the user tried the demonstration program otherwise it will not fulfill the purpose of demonstration.

As per claim 11:

Suzuki does not explicitly teaches:

wherein said receiving code from said identified user further comprises receiving code for a predetermined time from said identified user.

However, official notice is taken that receiving code for a predetermined time from said identified user is well known to the art at the time the invention was made. One would have been motivated to modify because in order to prevent the server from crashing, corrupting, interrupting, slow responding, etc., due to large amount of users

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access the server at once, the user is only allowed to access the server with a predetermined time.

8. Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Suzuki (JP02002342084A) and Tobler (United States Patent No.: US 6,978,232), and further in view of Smith et al. (United States Patent No.: US 6,918,038).

As per claim 15:

Suzuki does not explicitly teaches:

providing said server with a secure shut down mechanism.

However, Smith teaches:

providing said server with a secure shut down mechanism (see at least col. 18:7-10 "**Generally, monitor node 674 monitors the status of the nodes from a security standpoints and may facilitate shut down all or part of the network in response to a security violation**").

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Suzuki's approach to allow secure shut down as taught by Smith. One of ordinary skill in the art would have been motivated to modify Suzuki's approach to provide the well known secure shut down technique taught by Smith for security purposes.

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9. Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Chen et al. (USPN 5,832,208), in view of Suzuki (JP02002342084A), and further in view of

As per claims 29 and 32:

Suzuki teaches

providing an identified user with access, via a network, to a server comprising a program to be demonstrated (see at least [0014] "A user terminal is characterized by logging on to said terminal server through a communication line");

providing results of said demonstrated attributes of said program on said emails to a server and displaying said results as a web page (see at least [0014] "receiving the demonstration result of said software by said server for demonstration activation through said terminal server").

Suzuki does not explicitly teach

providing a server having a communications link and being configured with an antivirus scanner program.

wherein said email address comprises a destination for the user's email to be tested for the demonstration

communicating using said email address email for scanning by said antivirus scanner program to be demonstrated

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However, Chen teaches

providing a server having a communications link and being configured with an antivirus scanner program (see at least FIGS. 1-2 - "Anti-virus Software");

wherein said email address comprises a destination for the user's email to be tested for the demonstration (All email has a destination)

communicating using said email address email for scanning by said antivirus scanner program to be demonstrated (see at least col. 7:6-9 "A Lotus Notes server program 130 is configured within server 20 to transmit and receive files and e-mail messages from and to the various other nodes in LAN 100");

demonstrating attributes of said antivirus scanning program on said communicated email by scanning said email for proscribed code (see at least col. 7:21-22 "An anti-virus application 120 scans files for viruses and can remove viruses from any infected file");

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Suzuki to include anti-virus software to be demonstrated on the server. One would have been motivated to allow anti-virus software to be demonstrated on the server in order to advertise the anti-virus software to the user.

Suzuki in combination with Chen does not explicitly teach

identifying the user by a unique email address;

accepting a log on to said server from said identified user associated with said unique email address for retrieval of said demonstration results.

However, Jhingan teaches

identifying the user by a unique email address (see at least col. 3:50-53 "this meta information can include, but is not limited to, the sender's email address or content, information identifying one or more recipients"; see also col. 8:34-36 "The hosting server 38 can prompt a user to enter an email address which would be further verified against the original recipient system list obtain from the meta-data of the email");

accepting a log on to said server from said identified user associated with said unique email address for retrieval of said demonstration results (see at least col. 3:50-53 "this meta information can include, but is not limited to, the sender's email address or content, information identifying one or more recipients"; see also col. 8:34-36 "The hosting server 38 can prompt a user to enter an email address which would be further verified against the original recipient system list obtain from the meta-data of the email").

Therefore, it would have been obvious to one having an ordinary skill in the art at the time the invention was made to modify Suzuki in combination with Chen to include the teaching of Jhingan for identifying user using email address. One would have been motivated to modify because using email address to identify user is easy and fast.

As per claim 30:

Suzuki further teaches

wherein the demonstration comprises a plurality of programs that may be comparatively demonstrated (see at least [0030] "having the possibility of executing multiple application demonstrations with one connection from a user terminal").

As per claim 31:

Jhingan further teaches

wherein providing an identified user with access includes generating a unique operational email address for the user (see at least col. 3:50-53 "this meta information can include, but is not limited to, the sender's email address or content, information identifying one or more recipients"; see also col. 8:34-36 "The hosting server 38 can prompt a user to enter an email address which would be further verified against the original recipient system list obtain from the meta-data of the email").

As per claim 33:

Chen further teaches

wherein said email address comprises a destination for the user's email to be tested for the demonstration (All email comprises a destination).

Conclusion

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Phillip H. Nguyen whose telephone number is (571) 270-1070. The examiner can normally be reached on Monday - Thursday 10:00 AM - 3:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wei Y. Zhen can be reached on (571) 272-3708. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

PN

11/17/2008

/Wei Y Zhen/

Supervisory Patent Examiner, Art Unit 2191